UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

IN THE MATTER OF: CARTER CARBURETOR SITE ST. LOUIS, MISSOURI CARTER BUILDING, INC., RESPONDENT, Proceeding under Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622.	Docket No. CERCLA-07-2013-0009

ADMINISTRATIVE SETTLEMENT AGREEMENT

AND ORDER ON CONSENT FOR REMOVAL ACTIONS

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I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent for Removal Actions ("Settlement Agreement") is entered into voluntarily by Carter Building, Inc., ("CBI")("Respondent") and Region VII of the United States Environmental Protection Agency ("EPA"). This Settlement Agreement provides for the performance of a removal action by Respondent and the reimbursement of certain Future Response Costs incurred by the United States at or in connection with the Carter Carburetor Site (the "Site"), located in St. Louis, Missouri.

2. This Settlement Agreement is issued pursuant to the authority vested in the President of the United States by Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622.

3. The EPA has notified the state of Missouri of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. The EPA and Respondent recognize that this Settlement Agreement has been negotiated in good faith and that the actions to be undertaken by Respondent in accordance with this Settlement Agreement do not constitute an admission of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceeding, other than any proceeding to implement or enforce this Settlement Agreement, the validity of the findings of fact and determinations contained in Sections V and VI of this Settlement Agreement. Respondent agrees to undertake all actions required by this Settlement Agreement, including any modifications thereto, agrees to comply with and be bound by the terms of this Settlement

Agreement, and agrees that it will not contest either EPA's authority to issue or to enforce this Settlement Agreement or the basis or validity of this Settlement Agreement or its terms.

II. STATEMENT OF PURPOSE

5. The EPA and Respondent have entered into this Settlement Agreement for the purpose of implementing the response actions, selected by EPA in the March 30, 2011, Enforcement Action Memorandum (Attachment III), at the Site. This Settlement Agreement also provides for payment of certain Future Response Costs incurred by the United States at or in connection with the Site.

III. PARTIES BOUND

6. This Settlement Agreement applies to and is binding upon EPA and upon Respondent and its successors and assigns. Any change in the ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Settlement Agreement.

7. Respondent shall ensure that its contractors, subcontractors and representatives that perform Work under this Settlement Agreement receive a copy of and comply with this Settlement Agreement. Respondent shall be responsible for any noncompliance with this Settlement Agreement.

IV. DEFINITIONS

8. Unless otherwise expressly provided herein, terms used in this Settlement Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are

used in this Settlement Agreement and attachments attached hereto and incorporated hereunder, the following definitions shall apply:

A. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.

B. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday or Federal holiday, the period shall run until the close of business of the next working day.

C. "Document" or "record" shall mean any object that records, stores or presents information and includes writings, drawings, graphs, charts, photographs and other data compilations from which information can be obtained or translated, if necessary, through detection devices into reasonably useable form, and: (i) every copy of each document which is not an exact duplicate of a document which is produced; (ii) every copy which has any writing, figure or notation, annotation or the like on it; (iii) drafts; (iv) attachments to or enclosures with any document; and (v) every document referred to in any other document.

D. "Effective Date" shall mean the date this Settlement Agreement is effective pursuant to Section XXXVII of this Settlement Agreement.

E. "Enforcement Action Memorandum" shall mean the EPA Enforcement Action Memorandum relating to the Site signed on March 30, 2011 by the Regional Administrator, EPA Region VII and all attachments thereto. The Enforcement Action Memorandum is attached as Attachment III.

F. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

G. "Future Oversight Costs" shall mean that portion of Future Response Costs that EPA incurs in monitoring and supervising Respondent's performance of the Work to determine whether such performance is consistent with the requirements of the Settlement Agreement, including costs incurred in reviewing plans, reports, and other deliverables submitted pursuant to this Settlement Agreement, as well as costs incurred in overseeing implementation of the Work and costs incurred in securing access for EPA and Respondent necessary for the performance of Work under this Settlement Agreement. However, Future Oversight Costs do not include, the costs incurred by the United States pursuant to Paragraph 59 (Emergency Response) and Paragraph 87 (Work Takeover); the costs incurred by the United States in developing plans, reports, or other deliverables required to be submitted by Respondent pursuant to this Settlement Agreement; and the costs incurred by the United States in enforcing the terms of this Settlement Agreement, including institutional controls, all costs incurred in connection with Dispute Resolution pursuant to Section XVIII of this Settlement Agreement, and all costs incurred by the United States in responding to any judicial or administrative action initiated by Respondent against EPA.

H. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs on and after the Effective Date of this Settlement Agreement in reviewing or developing plans, reports, or other deliverables required to be submitted by Respondent pursuant to this Settlement Agreement, in overseeing implementation of the Work, or otherwise implementing, overseeing or enforcing this Settlement Agreement, including, but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraphs 39 and 41 (including, but not limited to, the costs

to secure, implement, monitor, maintain, or enforce Institutional Controls or post-removal Site controls), Paragraph 59 (Emergency Response), and Paragraph 87 (Work Takeover).

I. "Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

J. "Interest" shall mean interest at the current rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

K. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

L. "Paragraph" shall mean a portion of the Settlement Agreement identified by an Arabic numeral.

M. "Party" or "Parties" shall mean EPA or Respondent, or EPA and Respondent.

N. "Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site through the Effective Date of this Settlement Agreement.

O. "Performance Standards" shall mean the minimum levels of contamination in the areas of contamination described in the SOW that must be met by Respondent in conducting the removal actions.

P. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§

6901, *et seq*. (also known as the Resource Conservation and Recovery Act).

Q. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

R. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent for Removal Actions and all attachments hereto. In the event of conflict between this Settlement Agreement and any attachment, the Settlement Agreement shall control.

S. "Site" shall mean the former Carter Carburetor Facility, an approximately 10-acre former manufacturing and warehousing facility located in St. Louis, Missouri (see Attachment I) and all areas where contamination from the Facility has migrated, been released to or otherwise come to be located.

T. "State" shall mean the state of Missouri, including all of its departments, agencies and instrumentalities.

U. "Statement of Work" or "SOW" shall mean the statement of work for implementation of the removal actions, as set forth in Attachment II to this Settlement Agreement, and any modifications made thereto in accordance with this Settlement Agreement.

V. "United States" shall mean the United States of America, including all of its departments, agencies and instrumentalities.

W. "Waste Materials" shall mean: (i) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (ii) any "pollutant or contaminant" under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and (iii) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

X. "Willco Property Site" shall mean the Willco Building and approximately 2-acre parcel of property retained or acquired by CBI as depicted in Attachment I, including the land beneath the Willco Building.

Y. "Work" shall mean all activities Respondent is required to perform under this Settlement Agreement, including payment of Future Response Costs, except for the record preservation requirements under Section XIII of this Settlement Agreement.

V. FINDINGS OF FACT

9. The Site includes one and one half square city blocks in the city of St. Louis, Missouri. The Site is bounded on the north by Dodier Street, on the east by Grand Boulevard, on the south by St. Louis Avenue and on the west by North Spring Avenue and Hyams Street. At one time, the Site consisted of several multi-story, connected, manufacturing and warehouse buildings and adjacent lots located in a mixed, urban commercial/residential area. The Site property covers approximately 10 acres. The Site is 80 feet in elevation above the Mississippi River and is not within its 100 year flood plain zone.

10. ACF Industries, Incorporated ("ACF") owned the property from 1956 until April 26, 1985, when the Site property and buildings (also referred to herein as the "Facility") were deeded to the Land Reutilization Authority of the city of St. Louis, Missouri ("LRA"). During ACF's period of property ownership, carburetors were manufactured for use in gasoline and diesel powered equipment. When ACF closed the Facility in 1984, the manufacturing lines were dismantled and most of the equipment was shipped to new locations or sold. At the time the Site property was deeded to LRA, approximately twenty (20) transformers and an undisclosed number of capacitors and switch gears, all of which contained PCB fluids, remained on-Site.

ACF believes the transformers, capacitors and switch gears were operational and intact at the time of the conveyance to LRA. ACF Industries, Inc., became ACF Industries, LLC on May 1, 2003.

11. On April 26, 1985, LRA deeded the Facility to Hubert and Sharon Thompson (the "Thompsons"). On January 9, 1986, the Thompsons sold a portion of the Facility to Edward Pivirotto and his wife (the "Pivirottos"). The Pivirottos subsequently failed to pay the real estate taxes on the portion of the Facility they owned, resulting in a Sheriff's sale on August 20-22, 1991. Because no substantive bids were received at the sale, the property reverted to LRA by operation of law. Thus on February 2, 1992, LRA became the owner of the northeastern portion of the Facility previously owned by the Pivirottos. The LRA currently owns the property upon which "die cast" buildings, the south warehouse facility and an adjacent north parking lot were located (see Attachment I).

12. On June 20, 1989, CBI, a Delaware Corporation, entered into a lease and option to purchase agreement with Hubert and Sharon Thompson for the Carter Carburetor Manufacturing Building ("CBI Building"), which is part of the Site. The Thompsons failed to pay their mortgage or real estate taxes and CBI bought the Deed of Trust from Boatman's Bank and then foreclosed against the Thompsons on the CBI Building, the Willco Building, and 2.5 acres to the south of the CBI Building. CBI is the current owner of the portion of the Facility (the CBI Building Area and the Willco Building Area) not owned by LRA.

13. CBI leased areas of its buildings to several different businesses, including a metal fabrication shop, an auto repair shop, a plastics company, and storage companies.

14. In the early 1980's, ACF was required by the Industrial Pollution Control Section of the Metropolitan St. Louis Sewer District ("MSD") to monitor and control waste water discharges containing PCBs. ACF instituted physical and procedural controls to reduce PCBs in their waste water discharges. These controls were reported to be in effect until the Facility was decommissioned in 1984. A source of the current contamination was the hydraulic fluid containing PCBs in machinery and equipment used in the Carter Carburetor manufacturing processes at the Facility during ACF's ownership of the Facility.

15. The EPA Emergency Planning and Response Branch conducted Site investigations in November 1993 and January 1994. The primary reason for the investigations was to collect environmental samples and conduct an assessment of the Site to determine if anyone had access to or exposure to areas previously determined to contain PCBs. Samples were collected from areas at the Site known or suspected to have concentrations of PCBs. These areas included: (A) a vaulted pump room near the center of the CBI portion of the Facility that contained pumps, old boilers and other equipment, and once housed electrical substation #1; (B) locations near and below electrical substation #3 which was on the roof of the LRA portion of the Facility; and (C) locations near electrical substation #4 which was in the northeast corner of the LRA portion of the Facility. Analysis of a sediment sample taken from the floor drain in the pump room indicated the presence of PCBs; however, it could not be determined if PCBs had been released or were capable of being released to the city sewer system through this floor drain. Analytical results from samples taken during the November 1993 and January 1994 investigations confirmed the presence of PCBs at and near two large PCB transformers at electrical substations #3 and #4, indicating that releases of PCBs had occurred from each transformer. Two drums of

oil containing PCBs were also found near the PCB transformer at electrical substation #4. A large PCB-stained area (approximately 15 feet by 40 feet in size) was discovered immediately west of the drums of PCB oil. Analytical results from samples collected also indicated that PCBs were on certain areas of the floors in the main part of the manufacturing building. As a result of the discoveries, EPA requested the LRA to immediately pack and secure the two drums of PCB oil, restrict access to the Site, and post PCB warning stickers.

16. The EPA conducted another Site investigation in March 1994. The purposes of this investigation were to collect additional air and to further characterize the Site and determine the potential threat (through wipe and dust samples) to those individuals who were in the building on a daily basis. Analytical results from the air sampling and from fifty (50) wipe samples of the floors, walls and equipment at the Facility confirmed the existence of PCBs throughout the Facility.

17. In December 1995 and January 1996, EPA and its contractors conducted an Integrated Assessment Investigation in order to complete a Preliminary Assessment/Site Inspection ("PA/SI") to determine if off-site migration had occurred and to provide recommendations for further action based on the results of the PA/SI. This investigation revealed six (6) potential sources of releases of hazardous substances, based on the operational history and past investigations. The potential sources of PCBs within the Facility were transformers, drums, metal shavings, smokestack/exhaust ventilation, sumps and trenches and building material and dust.

18. Based on the November 1993 and January and March 1994 investigations, and the December 1995 and January 1996 Integrated Assessment Investigation, EPA determined that

releases of PCBs occurred on all four floors of the CBI Building. PCBs were located outside the north die cast building near electrical substation #4 and on the roof of the building near electrical substation #3, as well as surfaces inside the die cast building. Sample analytical results exceeded cleanup levels as outlined in EPA's Office of Solid Waste and Emergency Response, Directive No. 9355.4-01, "Guidance on Remedial Actions for Superfund Sites with PCB Contamination" and the PCB Spill Cleanup Policy set forth in Subpart G of 40 C.F.R. Part 761.

19. The Site is surrounded by commercial and residential areas. The Herbert Hoover Boys and Girls Club of St. Louis and a ballpark are located across Dodier Street, north of the Facility. Two high schools and three elementary schools are located within one half a mile of the Facility. The Facility is located near a residential area.

20. In July 1998, EPA conducted an investigation at the Site and collected chip, wipe and water samples from the CBI Building, the largest remaining Site building, which is currently owned by Respondent. Results of analyses of the wipe samples collected on the first floor indicated the presence of PCBs at levels as high as 247.5 µg/100 cm^2, with an average wipe sample concentration inside the CBI building on the first floor of 61.5 µg/100 cm^2. The concrete chip sample analytical results from the first floor indicated PCB concentrations as high as 858 parts per million ("ppm"), with an average chip sample PCB concentration of 176 ppm. Results of the analyses of two water samples collected from a pit on the first floor indicated PCB concentrations at 841 and 490 micrograms/liter (µg/l). On the second floor, only one wipe sample analytical result exceeded 10 µg/100 cm^2 with a concentration of PCBs at 11.2 µg/100 cm^2. The third floor sample analytical results indicated PCB concentrations as high as 38.3 µg/100 cm^2 with an average PCB concentration of 11.1 µg/100 cm^2.

21. In April 2003, ACF voluntarily contracted with an environmental consulting company to conduct additional environmental sampling at the Site. Several soil boring samples were collected at the Site, the majority of which were collected from beneath the concrete foundation floor of the two former die cast buildings. The analytical results from these soil samples indicated concentrations of PCB as high as 11,470 ppm" in the sampled subsurface area, primarily beneath the die cast building's concrete foundation floors. Based on the results of these soil samples, ACF estimated that 1,750 cubic yards of PCB-contaminated material at concentrations above 10 ppm was present beneath or near the former die cast buildings. In addition to the PCBs, various hydrocarbon and chlorinated solvents have been identified at the Site. Tetrachloroethylene and trichloroethylene have been identified in subsurface soils at concentrations of 3.46 ppm and 1.05 ppm respectively.

22. In September 2005, ACF entered into an Administrative Settlement Agreement and Order on Consent for Removal Action ("2005 Settlement Agreement") with EPA, which required ACF to conduct an engineering evaluation/cost analysis ("EE/CA") at the Site for the purpose of developing response action alternatives to address the remaining on-Site contamination. The 2005 Settlement Agreement included the collection of additional data to determine the extent of contamination and also included an investigation of a former TCE storage tank area for possible subsurface contamination.

23. In the summer of 2006, ACF and its contractors conducted environmental assessments for lead-based paint, asbestos, PCBs, and TCE. The results of this investigation confirmed and further delineated the following: PCBs in the CBI Building and Willco Building;

asbestos and lead paint in the CBI Building and Willco Building; and friable/non-friable asbestos and peeling lead paint throughout both buildings.

24. On September 20, 2010, EPA approved the EE/CA Report with comments and ACF submitted the final EE/CA Report, dated September 22, 2010, to EPA. On September 27, 2010, EPA initiated a thirty (30) day public comment period through advertisements placed in several local St. Louis newspapers announcing the availability of the EE/CA Report and the Administrative Record. On October 4, 2010, EPA held a public meeting for the purpose of describing the recommended actions for the Site, receiving comments, and answering questions concerning the EE/CA and the Site in general. The public comment period ended on January 31, 2011, after EPA had granted two extensions to the original thirty (30) day comment period.

25. After the close of the public comment period, EPA prepared a Responsiveness Summary that addressed the significant comments submitted during the public comment period. The Responsiveness Summary is part of the Administrative Record. EPA subsequently issued its decision document, an Enforcement Action Memorandum, on March 30, 2011.

26. Exposure to asbestos increases the risk of developing lung disease. In general, the greater the exposure to asbestos, the greater the chance of developing harmful health effects. Disease symptoms may take several years to develop following exposure. Exposure to airborne friable asbestos may result in a potential health risk because persons breathing the air may breathe in asbestos fibers. Continued exposure can increase the amount of fibers that remain in the lung. Fibers embedded in lung tissue over time may cause serious lung diseases including asbestosis, lung cancer, or mesothelioma.

27. The most commonly observed health effects in people exposed to large amounts of

PCBs are skin conditions such as acne and rashes. Studies in exposed workers have shown changes in blood and urine that may indicate liver damage. PCB exposures in the general population are not likely to result in skin and liver effects. Most of the studies of health effects of PCBs in the general population examined children of mothers who were exposed to PCBs. Animals that ate food containing large amounts of PCBs for short periods of time had mild liver damage and some died. Animals that ate smaller amounts of PCBs in food over several weeks or months developed various kinds of health effects, including anemia; acne-like skin conditions; and liver, stomach, and thyroid gland injuries. Other effects of PCBs in animals include changes in the immune system, behavioral alterations and impaired reproduction. PCBs are not known to cause birth defects. A few studies of workers indicate that PCBs were associated with certain kinds of cancer in humans, such as cancer of the liver and biliary tract. The Department of Health and Human Services (DHHS) has concluded that PCBs may reasonably be anticipated to be carcinogens. The EPA and the International Agency for Research on Cancer (IARC) have determined that PCBs are probably carcinogenic to humans.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

28. Based on the Finding of Fact set forth above, and the Administrative Record for the removal actions identified in the Enforcement Action Memorandum (Attachment III), EPA has determined that:

A. The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

B. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

C. The Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

D. The Respondent is a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

E. The conditions described in the Findings of Fact above constitute an actual or threatened "release" of a hazardous substance from the Facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

F. The actions required by this Settlement Agreement have been determined to be appropriate after consideration of the factors identified in 40 C.F.R. § 300.415(b)(2).

G. The actions required by this Settlement Agreement are necessary to protect the public health, welfare or the environment, are in the public interest and, if carried out in compliance with the terms of this Settlement Agreement, will be consistent with the NCP, as provided in 40 C.F.R. § 300.700(c)(3)(ii).

VII. SETTLEMENT AGREEMENT AND ORDER

29. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby ORDERED and AGREED that Respondent shall comply with all provisions of this Settlement Agreement, including, but not limited to, all attachments to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

VIII. DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR AND ON-SCENE COORDINATOR

30. Respondent shall retain one or more primary contractors to perform the Work and shall notify EPA of the name(s) and qualifications of such contractor(s) within twenty-one (21) days of the Effective Date. Respondent shall also notify EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work at least fourteen (14) days prior to commencement of their Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondent. If EPA disapproves of a selected contractor, Respondent shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within thirty (30) days of EPA's disapproval. The proposed primary contractor(s) must demonstrate compliance with ANSI/ASQC E-4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), by submitting to EPA a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B0-1/002), or equivalent documentation as required by EPA.

31. Within twenty-one (21) days after the Effective Date, Respondent shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondent required by this Settlement Agreement, and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of

the designated Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within thirty (30) days following EPA's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by Respondent.

32. EPA has designated Jeffery Weatherford of the Emergency and Enforcement Response Branch, Superfund Division, Region VII, as its On-Scene Coordinator ("OSC"). Except as otherwise provided in this Settlement Agreement, Respondents shall direct all submissions required by this Settlement Agreement to the OSC at:

U.S. Environmental Protection Agency
212 Little Bussen Road
Fenton, Missouri 63026
Telephone (636) 326-4720
weatherford.jeffrey@epa.gov.

33. EPA and Respondent shall have the right, subject to Paragraph 32, to change their respective designated OSC or Project Coordinator. Respondent shall notify EPA at least fourteen (14) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notice.

IX. WORK TO BE PERFORMED

34. Respondent shall perform, at a minimum, all actions necessary to implement certain response actions selected and described in the Enforcement Action Memorandum and Statement of Work. The actions to be implemented include the following:

A. Willco Property Site: The following actions will be conducted in accordance with the approved Removal Action Work Plan upon completion of all substantial removal activities at the

Site, including actions being conducted by the EPA or other parties or termination of the access agreement with ACF for the Willco Property Site.

i. Respondent shall remove asbestos-containing materials and debris in the Willco Building. The asbestos-containing material shall be shipped off-Site for proper disposal.

ii. Following the removal of the asbestos-containing material and approval by EPA to proceed with additional work, the Willco Building may be demolished. Demolition debris shall be characterized and transported off-Site for disposal in accordance with the PCB regulations, 40 C.F.R. Part 761. If demolition does not occur, Respondent shall reduce the PCB levels in concrete, dust, and other porous surfaces to below one ppm and all non-porous surfaces shall be cleaned, or removed and disposed of to reduce the PCB levels to below 10 micrograms per 100 square centimeters, all in accordance with the Statement of Work.

iii. All activities at this area shall be conducted in a manner to minimize off-Site impacts due to fugitive dust emissions and stormwater or process water run-off.

B. Institutional Controls. If necessary and depending upon the levels of contamination that remain at the Willco Property Site, institutional controls shall be put in place to restrict future use and activities at the Willco Property Site. If contaminant levels remain above levels appropriate for any future use of the Willco Property Site, an environmental covenant shall be developed and placed in the property records to prohibit use of the property for residential, school or child care purposes. Depending of the levels on contamination that may remain, the environmental covenant may prohibit certain activities such as such as excavation without prior approval.

C. Transfer of Property. Respondent agrees to voluntarily transfer the property after removing all deeds of trust pertaining to the property depicted in Attachment I as the CBI Building to the Land Reutilization Authority of the City of St. Louis within thirty (30) days of the Effective Date of this Order.

D. Respondent agrees to allow unrestricted access to the Willco Property Site until such time as all substantial removal activities have been completed at the Site, including actions being conducted by the EPA or other parties.

35. Removal Action Work Plan and Implementation.

A. Within ninety (90) days after the Effective Date of this Settlement Agreement, Respondent shall submit to EPA for approval a draft Removal Action Work Plan for performing the actions generally described in Paragraph 34 above. The draft work plan shall include provisions for engineering controls that may be necessary in any of the areas where contaminants are left in place at the Willco Property Site. The draft work plan shall also provide a description of, and an expeditious schedule for, the actions required by this Settlement Agreement.

B. Quality Assurance Project Plan ("QAPP"). Within ninety (90) days of the Effective Date of this Settlement Agreement, Respondent shall submit to EPA for review and approval a QAPP. The QAPP shall be prepared in accordance with the SOW and "EPA Requirements for Quality Assurance Project Plans (QA/R-5)," EPA/240/B-01/003, March 2001, and "EPA Guidance for Quality Assurance Project Plans (QA/G-5)," EPA/600/R-98/018, February 1998.

36. Health and Safety Plan ("HSP"). Within ninety (90) days of the Effective Date of this Settlement Agreement, Respondent shall submit a HSP to EPA for review and approval.

The HSP shall ensure the protection of the public health and safety during performance of the Work under this Settlement Agreement. The HSP shall be prepared in accordance with "EPA's Standard Operating Safety Guide," PUB 9285.1-03, PB 92-963414, June 1992. In addition, the HSP shall comply with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910. If EPA determines that it is appropriate, the HSP shall also include contingency planning. Respondent shall incorporate all changes to the HSP recommended by EPA and shall implement the HSP during the pendency of the removal action.

37. Quality Assurance and Sampling.

A. All sampling and analyses performed pursuant to this Settlement Agreement shall conform to all EPA direction, approval and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation and chain of custody procedures. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondent shall follow, as appropriate, "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures," OSWER Directive No. 9360.4-01, April 1, 1990, as guidance for QA/QC and sampling. Respondent shall only use laboratories that have a documented quality system that complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs, American National Standard," January 5, 1995, and "EPA Requirements for Quality Management Plans (QA/R-2)," EPA/240/B-01/002, March 2001, or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the

National Environmental Laboratory Accreditation Program ("NELAP") as meeting the quality system requirements.

B. Upon request by EPA, Respondent shall have such a laboratory analyze samples submitted by the EPA for QA monitoring. Respondent shall provide to EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

C. Upon request by EPA, Respondent shall allow EPA or its authorized representatives to take split and/or duplicate samples. Respondent shall notify EPA not less than seven (7) days in advance of any sample collection activity, unless shorter notice is agreed to by EPA. The EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall allow Respondent to take split or duplicate samples of any samples it takes as part of its oversight or Respondent's performance of the Work.

38. Institutional Control Plan. If requested by EPA, within ninety (90) days of approval of the Removal Action Report, Respondent shall submit to EPA for review and approval a draft Institutional Control ("IC") Plan that details all land use restrictions that may be necessary following completion of the removal actions to ensure the continued long-term effectiveness of the removal actions. If necessary, as determined by EPA, the IC Plan will include the development of an environmental covenant that will specify future Willco Property Site use limitations and activity restrictions. The IC Plan will conform to all applicable EPA guidance documents.

39. Post-Removal Site Control. If requested by EPA, within ninety (90) days of receipt of EPA's request, Respondent shall submit to EPA for review and approval a draft Post-Removal

Site Control Plan consistent with Section 300.415(l) of the NCP and OSWER Directive No. 9360.2-02, that details all physical and engineering controls that may be necessary to ensure the continued effectiveness of the removal actions at the Willco Property Site. The Post-Removal Site Control Plan, which shall include the monitoring and maintaining of any ICs that may be necessary and required at the Willco Property Site, will not be finalized until EPA has determined the removal actions have been completed. Upon EPA approval, Respondent shall implement such controls and shall provide EPA with documentation of all post-removal site control arrangements. Any subsequent transfers of post-removal control requirements to a third party shall be subject to EPA approval.

40. Reporting.

A. Progress Reports. Respondent shall submit periodic written progress reports to EPA on or before the 10th day following the end of the reporting period. EPA shall forward a copy of each progress report to ACF. Initially, the reporting period shall be monthly, starting with the first full month following receipt of EPA's notice to begin onsite removal activities. Submission of periodic progress reports shall continue until termination of this Settlement Agreement, unless otherwise directed in writing by the OSC. The monthly progress reports shall include, at a minimum:

i. a description of the actions completed during the reporting period;

ii. a description of actions scheduled for completion during the reporting period which were not completed along with a statement indicating why such actions were not completed and an anticipated completion date;

iii. any proposed revisions to the project schedule for review and approval by EPA; and

iv. a description of the actions which are scheduled for completion during the next reporting period, including the specific dates Respondent intends to be at the Site.

B. Respondent shall submit one (1) copy of all plans, reports or other submissions required by this Settlement Agreement, the Statement of Work or any approved work plan in accordance with Paragraph 32 of Section VIII (Designation of Contractor, Project Coordinator and On-Scene Coordinator) of this Settlement Agreement. Upon request by EPA, Respondent shall submit such documents in electronic form.

C. Respondent shall, at least thirty (30) days prior to the conveyance of any interest in real property at the Willco Property Site, give written notice to the transferee that the property is subject to this Settlement Agreement and written notice to EPA of the proposed conveyance, including the name and address of the transferee. Respondent also agrees to require that its owner successor(s) comply with the immediately preceding sentence and Sections XI (Site Access) and XII (Access to Information) of this Settlement Agreement.

41. Removal Action Final Report. Within sixty (60) days after completion of all Work required by this Settlement Agreement, Respondent shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Settlement Agreement. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports," and shall be prepared in compliance with "Superfund Removal Procedures: Removal Response Reporting – POLREPS and OSC Reports" (OSWER Directive No. 9360.3-03, June 1, 1994). The final report shall include a good faith estimate of total costs

or a statement of actual costs incurred in complying with the Settlement Agreement, a listing of quantities and types of materials removed off-Site or handled on-Site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination(s) of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (*e.g.*, manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

> Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

42. Off-Site Shipments.

Respondent shall comply with all laws of the state to which any Waste Material will be transported for disposal or use as fill material. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-Site location, Respondent shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondent shall only send hazardous substances and hazardous waste from the Site to an off-Site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

X. EPA REVIEW OF SUBMISSIONS

43. After review of any plan, report or other deliverable which is required to be submitted for approval pursuant to this Settlement Agreement, including a resubmission, EPA shall, in writing: (A) approve, in whole or in part, the submission; (B) approve the submission upon specified conditions; (C) disapprove, in whole or in part, the submission, directing that Respondents modify the submission; (D) disapprove, in whole or in part, the submission, notifying Respondents of the deficiencies and EPA's decision to modify or develop the required deliverable; or (E) any combination of the above.

44. In the event of approval or an undisputed approval upon specified conditions by EPA pursuant to Paragraph 43(A) or (B), Respondent shall proceed to take any action required by the plan, report or other deliverable as approved by EPA.

45. Notice of Disapproval.

A. Upon receipt of a notice of EPA disapproval pursuant to Paragraph 43(C), Respondent shall, within thirty (30) days (or such additional time as specified by EPA in such notice) correct the deficiencies and resubmit the plan, report or other deliverable to EPA for approval. Any stipulated penalty applicable to the submission, as provided in Section XX of this Settlement Agreement, shall accrue during the thirty (30) day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or the required deliverable is modified or developed by EPA due to a material defect as provided in Paragraph 46B.

B. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 43(C) or (D), Respondent shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a

submission shall not relieve Respondent of any liability for stipulated penalties under Section XX of this Settlement Agreement.

46. Resubmissions.

A. In the event a resubmitted plan, report or other deliverable, or portion thereof, is disapproved by EPA, EPA may again require Respondent to correct the deficiencies, in accordance with this Section. The EPA also retains the right to modify or develop the plan, report or other deliverable. Respondent shall implement any such plan, report or deliverable as modified or developed by EPA, subject only to Respondent's right to invoke the procedures set forth in Section XVIII (Dispute Resolution) of this Settlement Agreement.

B. If upon resubmission, a plan, report or other deliverable is disapproved, modified or developed by EPA due to a material defect, and Respondent does not prevail after invoking the dispute resolution procedures in Section XVIII of this Settlement Agreement, Respondent shall be deemed to have failed to submit such plan, report or deliverable in a timely and adequate manner. In this event, any stipulated penalty applicable to the resubmission shall begin to accrue from the date of receipt of written notification by EPA of the disapproval and imposition of the penalty. Any such stipulated penalty shall be payable in accordance with the provisions of Section XX (Stipulated Penalties) of this Settlement Agreement, unless Respondent invokes the procedures set forth in Section XVIII (Dispute Resolution) of this Settlement Agreement and EPA's action is overturned pursuant to that Section. The provisions of Sections XVIII (Dispute Resolution) and XX (Stipulated Penalties) of this Settlement Agreement shall govern the implementation of the Work and accrual and payment of any stipulated penalties during dispute resolution.

47. Subject to final resolution of any dispute initiated under Section XVIII (Dispute Resolution) of this Settlement Agreement, all plans, reports and other deliverables required to be submitted to EPA under this Settlement Agreement shall, upon approval, modification or development by EPA, be enforceable under this Settlement Agreement. In the event EPA approves, modifies or develops a portion of a plan, report or other deliverable required to be submitted to EPA under this Settlement Agreement, the approved, modified or developed portion shall be enforceable under this Settlement Agreement.

XI. SITE ACCESS

48. Respondent shall, commencing on the Effective Date of this Settlement Agreement, provide EPA and ACF and their authorized representatives, including contractors, with access at all reasonable times to the Willco Property Site for the purpose of conducting any activity related to this Settlement Agreement and activities agreed to be conducted by ACF at the Site under EPA oversight.

49 ACF shall have unrestricted access to the Willco Property Site until such time as all substantial removal activities have been completed at the Site.

50. Notwithstanding any provision of this Settlement Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA and any other applicable statute or regulation.

XII. ACCESS TO INFORMATION

51. Upon request, Respondent shall provide to EPA copies of all documents and information within its possession or control or that of its contractors or agents relating to activities at the Site or to the implementation of this Settlement Agreement, including, but not

limited to, sampling analyses, chain of custody records, manifests, trucking logs, receipts, reports, correspondence or other documents or information related to the Work. Respondent shall also make available to EPA, for purposes of investigation, information gathering or testimony, its employees, agents or representatives with knowledge of relevant facts concerning the performance of the Work.

52. Respondent may assert business confidentiality claims covering part or all of the documents or information submitted to EPA under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA, or if EPA has notified Respondent that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents of information without further notice to Respondent.

53. Respondent may assert that certain documents, records and other information are privileged under the attorney work-product privilege, attorney-client privilege or any other privilege or protection from disclosure that is recognized by Federal law. If Respondent asserts such a privilege in lieu of providing documents, Respondent shall provide EPA the following: (A) the title of the document, record or information; (B) the date of the document, record or information; (C) the name and title of the author of the document, record or information; (D) the name and title of each addressee and recipient; (E) a description of the contents of the document, record or information; and (F) the privilege asserted by the Respondent. However, no document,

record or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that it is privileged.

54. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical or engineering data, or any other documents or information evidencing conditions at or around the Site.

XIII. RECORD PRESERVATION

55. Until ten (10) years after Respondent's receipt of EPA's notification pursuant to Section XXXI (Notice of Completion of Work) of this Settlement Agreement, Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until ten (10) years after Respondent's receipt of EPA's notification pursuant to Section XXXI (Notice of Completion of Work) of this Settlement Agreement, Respondent shall also instruct its contractors and agents to preserve all documents, records or information of whatever kind, nature or description relating to performance of the Work. To the extent Respondent preserves a contractor's and agent's documents, records or information pursuant to this Paragraph, that contractor or agent shall not be required to preserve such documents, records or information.

56. At the conclusion of this ten (10) year document retention period, Respondent shall notify EPA at least ninety (90) days prior to the destruction of any such record or document, and,

upon request by EPA, Respondent shall deliver any such record or document to EPA. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by Federal law. If Respondent asserts such a privilege in lieu of providing documents, Respondent shall provide EPA the following: (A) the title of the document, record or information; (B) the date of the document, record or information; (C) the name and title of the author of the document, record or information; (D) the name and title of each addressee and recipient; (E) a description of the contents of the document, record or information; and (F) the privilege asserted by the Respondent. However, no document, record or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that it is privileged.

57. Respondent hereby certifies that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XIV. COMPLIANCE WITH OTHER LAWS

58. Respondent shall perform all actions required pursuant to this Settlement Agreement in accordance with all applicable local, state and Federal laws and regulations except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 9621(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-Site actions required pursuant to

this Settlement Agreement shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under Federal environmental or state environmental or facility siting laws. Respondent shall identify ARARs in the Removal Action Work Plan, subject to EPA approval.

XV. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

59. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Materials from the Willco Property Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action. Respondent shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondent shall also immediately notify the EPA Project Coordinator or, in the event of his/her unavailability, the EPA Regional Duty Officer on the twenty-four spill line ((913) 281-0991) of the incident or Willco Property Site conditions. In the event that Respondent fails to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondent shall reimburse EPA all costs incurred by EPA or its authorized representatives for such response actions not inconsistent with the NCP pursuant to Section XVII (Reimbursement of Response Costs) of this Settlement Agreement.

60. In addition, in the event of any release of a hazardous substance from or at the Willco Property Site, Respondent shall immediately notify the EPA Project Coordinator and the National Response Center at (800) 424-8802. Respondent shall submit a written report to EPA

within seven (7) days after each such release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004 *et seq.*

XVI. AUTHORITY OF ON-SCENE COORDINATOR

61. The EPA OSC shall be responsible for overseeing Respondent's implementation of this Settlement Agreement. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any Work required by this Settlement Agreement, or to direct any other removal action undertaken at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

XVII. REIMBURSEMENT OF RESPONSE COSTS

62. Payments for Future Response Costs.

A. Respondent shall pay EPA all Future Response Costs, excluding Future Oversight Costs, not inconsistent with the NCP. If Respondent owes Future Response Costs, EPA will send Respondent a bill requiring payment that includes an Itemized Cost Summary ("ICS") Report which shall serve as the basis for payment demands on a periodic basis. Each ICS Report for a billing period will include: (i) EPA's payroll costs, including the names of the persons charging time, the pay periods each employee charged time, the number of hours charged per pay period and the payroll amounts for each employee per pay period; (ii) EPA's travel costs, including the names of the persons charging travel and the date of payment of each

travel claim; (iii) contract and cooperative agreement costs, including dollar amounts paid, dates paid and invoice numbers for such payments; (iv) EPA's indirect costs, including the amount computed; and (v) U. S. Department of Justice costs, if any.

B. Respondent shall make all payments required by this Paragraph 62 within thirty (30) days of its receipt of each bill requiring payment, except as otherwise provided in Paragraph 64 of this Settlement Agreement. Payments shall be made by cashier's or certified check for the amount of the bill made payable to the "EPA Hazardous Substance Superfund," referencing the name and address of the party making payment, the Site name, and EPA Region and Site /Spill ID Number 07JJ. Respondent shall send each payment to the following address:

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, Missouri 63197-9000.

C. At the time of payment, Respondent shall send notice that such payment has been made by e-mail to acctsreceivable.cinwd@epa.gov and by letter to:

EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, Ohio 45268

D. The total amount to be paid by Respondent pursuant to this Paragraph 62 shall be either deposited in the Carter Carburetor Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substances Superfund.

63. In the event that the payment for Future Response Costs are not made within thirty (30) days of Respondent's receipt of a bill, Respondent shall pay Interest on the unpaid balance. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondent's failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XX of this Settlement Agreement.

64. Respondent may contest payment of any Future Response Costs billed under Paragraph 62 submitted under this Settlement Agreement, if it alleges that EPA has made a mathematical error or included a cost item that is not within the definition of Future Response Costs, or if it believes EPA incurred excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. Such objection shall be made in writing within thirty (30) days of receipt of the bill and must be sent to the EPA OSC. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, the Respondent shall, within the thirty (30)-day period, pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 63. Simultaneously, the Respondent shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the state of Missouri and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. The Respondent shall send to the EPA OSC a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial

balance of the escrow account. Simultaneously with establishment of the escrow account, Respondent shall initiate the Dispute Resolution procedures in Section XVIII (Dispute Resolution) of this Settlement Agreement. If EPA prevails in the dispute, within five (5) days of the resolution of the dispute, Respondent shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 63. If Respondent prevails concerning any aspect of the contested costs, Respondent shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to EPA in the manner described in Paragraph 63. Respondent shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XVIII (Dispute Resolution) of this Settlement Agreement shall be the exclusive mechanisms for resolving disputes regarding Respondent's obligation to reimburse EPA for its Future Response Costs.

XVIII. DISPUTE RESOLUTION

65. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreement concerning this Settlement Agreement expeditiously and informally.

66. If Respondent objects to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, Respondent shall notify EPA in writing of its objections within ten (10) days of receipt of notice of such action or billing, unless the objection(s) has/have been resolved informally. Respondent's written objection(s) shall define the dispute and state the basis of Respondent's objection(s). The EPA and Respondent shall then have thirty (30) days from EPA's receipt of Respondent's written objections to resolve

the dispute through formal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA.

67. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by both Parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, Respondent may, within ten (10) days following the end of the Negotiation Period, request a decision by the Director of EPA Region VII's Superfund Division. The Director's decision shall be in writing and incorporated into and become an enforceable part of this Settlement Agreement. Respondent shall proceed in accordance with the Director's decision regarding the matter in dispute regardless of whether Respondent agrees with the decision. If Respondent does not abide by the Director's decision, EPA reserves the right in its sole discretion to conduct the Work itself, seek reimbursement from Respondent, seek enforcement of the decision, seek stipulated penalties and/or seek any other appropriate relief.

68. Except as provided in Paragraph 78, the existence of a dispute as defined herein and EPA's consideration of such matters as placed in dispute shall not excuse, toll or suspend any compliance obligation or deadline required pursuant to this Settlement Agreement during the pendency of the dispute resolution process, unless mutually agreed upon (except as to a dispute which is resolved in Respondent's favor) or unless otherwise excused, tolled or suspended by EPA Region VII's Superfund Division Director.

69. Except as provided in Paragraph 78, during the dispute resolution process set forth above, EPA reserves the right to take any action authorized by law, specifically including those

actions authorized by Sections 104, 106, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9606, 9607 and 9622.

70. Notwithstanding any other provisions of this Settlement Agreement, no action or decision by EPA pursuant hereto shall constitute final agency action giving rise to any rights to judicial review prior to EPA's initiation of judicial action to compel Respondents' compliance with this Settlement Agreement.

XIX. FORCE MAJEURE

71. Respondent agrees to perform all requirements under this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, a *force majeure* is defined as any event arising from causes beyond the control of Respondent, or of any entity controlled by Respondent, including, but not limited to, its contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Respondent's best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

72. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondent shall notify EPA orally within forty-eight (48) hours of when Respondent first knew that the event might cause a delay. Within five (5) days thereafter, Respondent shall provide to EPA in writing: (A) an explanation and description of the reasons for the delay; (B) the anticipated duration of the delay, including necessary demobilization and re-mobilization; (C) all actions taken or to be taken to prevent or minimize the delay; (D) a schedule for implementation of any

measures to be taken to prevent or mitigate the delay or the effect of the delay; (E) Respondent's rationale for attributing such delay to a *force majeure* event if it intends to assert such a claim; and (F) a statement as to whether, in the opinion of Respondent, such an event may cause or contribute to an endangerment to public health, welfare or the environment. Respondent shall take all reasonable measures to avoid and minimize the delay. Failure to comply with the above requirements of this Section shall preclude Respondent from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

73. The EPA shall provide Respondent with a written response to its *force majeure* claim as soon as practicable. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time period for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time of performance for Respondent of any other obligation under this Settlement Agreement. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondent in writing of its decision. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, EPA will notify Respondent in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

74. If Respondent elects to invoke the dispute resolution procedures set forth in Section XVIII (Dispute Resolution) of this Settlement Agreement, Respondent shall do so within fifteen (15) days after receipt of EPA's written determination.

XX. STIPULATED PENALTIES

75. Respondent shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 76 and 77 for failure to comply with the requirements of this Settlement Agreement, specified below, unless excused under Sections XIX (Force Majeure) or Section XVIII (Dispute Resolution) of this Settlement Agreement. "Compliance" by Respondent shall include completion of an activity under this Settlement Agreement or a plan approved under this Settlement Agreement in accordance with this Settlement Agreement and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

76. Stipulated Penalty Amounts - Plans/Reports.

A. For failure to submit to EPA any submission (except periodic progress reports), required by this Settlement Agreement or to cooperate and provide access in accordance with Paragraphs 34D and 40:

i. $150 per day per violation for the first (1st) through seventh (7th) days of noncompliance;

i. $300 per day per violation for the eighth (8th) through the fourteenth (14th) day of noncompliance; and

ii. $600 per day per violation for the fifteenth (15th) day and each succeeding day of noncompliance thereafter.

B. For failure to submit a periodic progress report required by Paragraph 40A of this Settlement Agreement:

i. $100 per day per violation for the first (1st) through tenth (10th) days of noncompliance;

ii. $200 per day per violation for the eleventh (11th) through the twenty-first (21st) days of noncompliance; and

ii. $350 per day per violation for the twenty-second (22nd) day and each succeeding day of noncompliance thereafter.

77. Stipulated Penalty Amounts - Work.

A. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Paragraph 34A:

i. $200 per day per violation for the first (1st) through seventh (7th) days of noncompliance;

ii. $400 per day per violation for the eighth (8th) through thirtieth (30th) days of noncompliance; and

iii. $1000 per day per violation for the thirty-first (31st) day and each succeeding day of noncompliance thereafter.

B. Compliance Milestones.

i. Failure to complete any Work in a timely manner as specified in the EPA-approved work plan;

ii. Failure to complete any Work required under Section XXX (Additional Removal Actions) of this Settlement Agreement; and

iii. Failure to remit a timely payment under Section XVII (Reimbursement of Response Costs) of this Settlement Agreement.

C. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 87 of Section XXII (Reservation of Rights by EPA), Respondent shall be liable for a stipulated penalty in the amount of $200,000.

78. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (A) with respect to a deficient submission under Section IX (Work to be Performed) of this Settlement Agreement, during the period, if any, beginning on the thirty-first (31st) day after EPA's receipt of such submission until the date EPA notifies Respondent in writing of any deficiency; (B) with respect to a decision by the EPA Director of EPA Region VII's Superfund Division under Paragraph 67 of Section XVIII (Dispute Resolution) of this Settlement Agreement, during the period, if any, beginning on the fourteenth (14th) day after the Negotiation Period begins until the date that the Director provides a final written decision regarding such dispute to Respondent; and (C) with respect to any claim of *force majeure* by Respondent pursuant to Paragraph 72 of Section XIX of this Settlement Agreement, during the period, if any, beginning on the fourteenth (14th) day after EPA's receipt of Respondent's written notification of a *force majeure* event until Respondent's receipt of EPA's notification pursuant to Paragraph 73. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

79. Following EPA's determination that Respondent has failed to comply with a requirement of this Settlement Agreement, EPA may give Respondent written notification of the failure and describe the noncompliance. EPA may send Respondent a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondent of a violation.

80. All penalties accruing under this Section shall be due and payable to EPA within thirty (30) days of Respondent's receipt from EPA of a written demand for payment of the penalties, unless Respondent invokes the dispute resolution procedures under Section XVIII (Dispute Resolution) of this Settlement Agreement. All payments to EPA under this Section shall be paid by certified or cashier's check made payable to "EPA Hazardous Substances Superfund," and shall be remitted to:

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, Missouri 63197-9000.

Each payment shall indicate that the payment is for stipulated penalties and shall reference the EPA Region and Site /Spill ID Number 07JJ, the EPA docket number, and Respondent's name and address. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to the EPA OSC.

81. The payment of penalties shall not alter in any way Respondent's obligations to complete performance of the Work required under this Settlement Agreement.

82. Except as provided in Paragraph 78, penalties shall continue to accrue during any dispute resolution period, but need not be paid until fifteen (15) days after the dispute is resolved by agreement or by Respondent's receipt of EPA's Director's decision.

83. If Respondent fails to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondent shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 80. Nothing in this Settlement Agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Sections 106(b) and122(l) of CERCLA, 42 U.S.C. §§9606(b) and 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to CERCLA Sections 106(b) or 122(l) or punitive damages pursuant to CERCLA Section 107(c)(3) for any violation for which a stipulated penalty is provided herein, except in the case of a willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XXII, Paragraph 87 of this Settlement Agreement. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XXI. COVENANT NOT TO SUE BY EPA

84. In consideration of the actions that will be performed and the payments made by Respondent under the terms of this Settlement Agreement, and except as otherwise specifically

provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work, Past Response Costs, Future Oversight Costs, and Future Response Costs. This covenant not to sue is conditioned upon the complete and satisfactory performance by Respondent of its obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XVII of this Settlement Agreement and maintaining any post-removal Site controls that may be required at the Willco Property Site. This covenant not to sue extends only to Respondent and does not extend to any other person.

XXII. RESERVATION OF RIGHTS BY EPA

85. Except as specifically provided in this Settlement Agreement, nothing in this Settlement Agreement shall limit the power and authority of EPA or the United States to take, direct or order all actions necessary to protect public health, welfare or the environment or to prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at or from the Site. Further, nothing in this Settlement Agreement shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

86. The covenant not to sue set forth in Section XXI of this Settlement Agreement above does not pertain to any matter other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondent with respect to all other matters, including, but not limited to:

A. claims based on a failure by Respondent to meet a requirement of this Settlement Agreement;

B. liability for costs not included within the definitions of Past Response Costs, Future Oversight Costs, or Future Response Costs;

C. liability for performance of response action other than the Work;

D. criminal liability;

E. liability for damages for injury to, destruction of or loss of natural resources, and for the costs of any natural resource damage assessments;

F. liability arising from the past, present or future disposal, release or threat of release of hazardous substances outside of the Site; and

G. liability for costs incurred or to incurred by the Agency for Toxic Substances and Disease Registry that are related to the Site.

87. Work Takeover. In the event EPA determines that Respondent has ceased implementation of any portion of the Work, is seriously or repeatedly deficient or late in their performance of the Work, or is implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Unless the Work takeover by EPA is in response to a release or a substantial threat of a release of a hazardous substance, EPA shall provide Respondent with prior written notice of its decision to takeover Work. Respondent may invoke the procedures set forth in Section XVIII (Dispute Resolution) of this Settlement Agreement to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by the United States in performing the Work pursuant to this

Paragraph shall be considered Future Response Costs that Respondent shall pay pursuant to Section XVII (Reimbursement of Response Costs) of this Settlement Agreement. Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXIII. COVENANT NOT TO SUE BY RESPONDENT

88. Respondent covenants not to sue and agrees not to assert any claim or cause of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Oversight Costs, Future Response Costs or this Settlement Agreement, including, but not limited to:

A. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112 or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612 or 9613, or any other provision of law.

B. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Missouri Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

C. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work, Past Response Costs, Future Oversight Costs, or Future Response Costs.

89. Nothing in this Settlement Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

90. Respondent agrees not to assert any claim and to waive all claims or causes of action (including but not limited to claims or causes of action under 107(a) or 113 of CERCLA) that it may have for response costs relating to the Site against any other person who enters into a settlement under CERCLA with the United States in connection with the Site. The preceding sentence shall apply only to conditions that existed as of the Effective Date of Settlement Agreement, and shall not apply to conditions that were created subsequent to the Effective Date of this Settlement Agreement. This waiver shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person if such person asserts or has asserted a claim or cause of action relating to the Site against such Respondent.

XXIV. OTHER CLAIMS

91. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. Neither the United States nor EPA shall be deemed to be a party to any contract entered into by Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors or consultants in carrying out actions pursuant to this Settlement Agreement.

92. Except as provided in Section XXI (Covenant Not to Sue by EPA) of this Settlement Agreement, nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondent or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including, but not limited to, any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

93. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXV. CONTRIBUTION

94. Except as provided in Paragraph 90 (waiver of claims), nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Except as provided in Paragraph 90 (waiver of claims), the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

95. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant action; provided, however, that nothing in this Paragraph affects the enforceability of the covenants set forth in Section XXI (Covenant Not to Sue by EPA).

96. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and that Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), or as may be otherwise provided by law, for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work, Past Response Costs, Future Oversight Costs, and Future Response Costs. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Respondent has, as of the Effective Date, resolved its liability to the United States for the Work, Past Response Costs, Future Oversight Costs, and Future Response Costs.

97. Effective upon signature of this Settlement Agreement by Respondent, Respondent agrees that the time period commencing on the date of its signature and ending on the date EPA receives from such Respondent the payment(s) required by Section XVII (Reimbursement of Response Costs) and, if any, Section XX (Stipulated Penalties) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the "matters addressed" as defined in Paragraph 96, and that, in any action brought by the United States related to the "matters addressed," such Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Respondent that it will not make this Settlement Agreement

effective, the statute of limitations shall begin to run again commencing ninety (90) days after the date such notice is sent by EPA.

98. Respondent shall, with respect to any suit or claim brought by it for matters related to this Settlement Agreement, notify EPA in writing no later than sixty (60) days prior to the initiation of such suit or claim. Each Respondent shall, with respect to any suit or claim brought against it for matters related to this Settlement Agreement, notify EPA in writing within ten (10) days after service of the complaint or claim upon such Respondent. In addition, Respondent shall notify EPA within ten (10) days after service or receipt of any Motion for Summary Judgment and within ten (10) days after receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

XXVI. INDEMNIFICATION

99. Respondent shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondent agrees to pay the United States all costs incurred by the United States, including, but not limited to, attorney's fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors and any person acting on Respondent's behalf or under its control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or

on behalf of Respondent in carrying out activities pursuant to this Settlement Agreement. Neither Respondent nor its contractors shall be considered an agent of the United States.

100. The United States shall give Respondent notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondent prior to settling such claim.

101. Respondent waives all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement or arrangement between Respondent and any person conducting Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Respondent shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement or arrangement between Respondent and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

XXVII. INSURANCE

102. At least seven (7) days prior to commencing any on-Site Work under this Settlement Agreement, Respondent shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of $500,000 combined single limit, naming EPA as an additional insured. Within the same time period, Respondent shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondent shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement

Agreement, Respondent shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing Work on behalf of Respondent in furtherance of this Settlement Agreement. If Respondent demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondent need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVIII. FINANCIAL ASSURANCE

103. Within ninety (90) days of completion of all substantial removal activities conducted at the Site, or termination of the access agreement with ACF for the Willco Property Site and written notification by EPA that Financial Assurance is required, Respondent shall establish and maintain financial security for the benefit of EPA in the amount of $200,000 in one or more of the following forms, in order to secure the full and final completion of Work by Respondent:

A. a surety bond unconditionally guaranteeing payment and/or performance of the Work;

B. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA;

C. a trust fund administrated by a trustee acceptable in all respects to EPA;

D. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;

E. a written guarantee to pay for or perform the Work provided by one or more parent companies of Respondent, or by one or more unrelated companies that have a substantial business relationship with Respondent; including a demonstration that any such guarantor company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f); and/or

F. a demonstration of sufficient financial resources to pay for the Work made by Respondent, which shall consist of a demonstration that Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f).

104. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instruments(s) evidencing such assurances) are inadequate, Respondent shall within thirty (30) days of receipt of written notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 103, above. In addition, if at any time EPA notifies Respondent that the anticipated cost of completing the Work has increased, then, within thirty (30) days of receipt of such written notification, Respondent shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondent's inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

105. If Respondent seeks to ensure completion of the Work through a guarantee pursuant to Subparagraph 104(E) or (F) of this Settlement Agreement, Respondent shall: (A) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f);

and (B) resubmit sworn statements to EPA conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date or such other date as agreed to by EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure estimates and the current plugging and abandonment costs estimates," the dollar amount to be used in the relevant financial test calculations shall be the current cost estimate of $200,000 for the Work at the Site plus any other RCRA, CERCLA, TSCA, or other Federal environmental obligations financially assured by the relevant Respondent or guarantor to EPA by means of passing a financial test.

106. If, after the Effective Date, Respondent can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 103 of this Section, Respondent may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondent shall submit a proposal for such a reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of security after receiving written approval from EPA. In the event of a dispute, Respondent may seek dispute resolution pursuant to Section XVIII (Dispute Resolution) of this Settlement Agreement. Respondent may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

107. Respondent may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section. In the event of a dispute,

Respondent may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

XXIX. MODIFICATION

108. The EPA OSC may make modifications to any plan or schedule in writing or by oral direction. Any oral modification will be memorialized in writing by EPA promptly, but shall have as its effective date the date of EPA OSC's oral direction. Any other requirement of this Settlement Agreement may be modified in writing by mutual agreement of the Parties.

109. If Respondent seeks permission to deviate from any approved work plan or schedule, Respondent's Project Coordinator shall submit a written request to the EPA OSC for approval outlining the proposed modification and its basis. Respondent may not proceed with the requested deviation until receiving oral or written approval from the EPA OSC pursuant to Paragraph 108.

110. No informal advice, guidance, suggestion or comment by the EPA OSC or other EPA representative regarding reports, plans, specifications, schedules or any other writing submitted by Respondent shall relieve Respondent of its obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXX. ADDITIONAL REMOVAL ACTIONS

111. If EPA determines that additional removal actions at the Willco Property portion of the Site, not included in an approved work plan, are necessary to protect public health, welfare or the environment, EPA will notify Respondent in writing of that determination. Unless otherwise stated by EPA, within thirty (30) days of receipt of written notice from EPA that additional

removal actions are necessary to protect public health, welfare or the environment, Respondent shall submit to EPA for review and approval a work plan or amended work plan for the additional removal actions. The plan shall conform to the applicable requirements of Section IX (Work to be Performed) of this Settlement Agreement. Upon EPA's approval of the work plan or amended work plan pursuant to Section X (EPA Review of Submissions) of this Settlement Agreement, Respondent shall implement the work plan or amended work plan for additional response actions in accordance with the provisions and schedule contained therein. This Section does not alter or diminish the EPA OSC's authority to make oral modifications to any plan or schedule pursuant to Section XXIX (Modification) of this Settlement Agreement.

XXXI. NOTICE OF COMPLETION OF WORK

112. When EPA determines, after its approval of the final Removal Action Report, that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including the obligations in Section XIII (Record Preservation), Section XVII (Reimbursement of Response Costs), Section XXII (Reservation of Rights by EPA) and Paragraph 39 (Post-removal site controls) in Section IX, EPA will provide written notice to Respondent. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Respondent, provide a list of the deficiencies, and require that Respondent modify the Removal Action Work Plan, if appropriate, in order to correct the deficiencies. Respondent shall implement the modified and approved Removal Action Work Plan and shall submit a modified Final Removal Action Report in accordance with the EPA notice. Failure by Respondent to correct the deficiencies identified by EPA shall be a violation of this Settlement Agreement.

XXXII. PUBLIC COMMENT

113. Final acceptance by EPA of the Past Response Costs and Future Oversight Cost compromise contained in this Settlement Agreement shall be subject to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i), which requires EPA to publish notice of the proposed settlement in the Federal Register, to provide persons who are not parties to the proposed settlement an opportunity to comment, solely, on the cost recovery component of the settlement, and to consider comments filed in determining whether to consent to the proposed settlement. EPA may withhold consent from, or seek to modify, all or part of Section XVII of this Settlement Agreement if comments received disclose facts or considerations that indicate that Section XVII of this Settlement Agreement is inappropriate, improper or inadequate. Otherwise, Section XVII shall become effective when EPA issues notice to Respondent that public comments received, if any, do not require EPA to modify or withdraw from Section XVII of this Settlement Agreement.

XXXIII. ATTORNEY GENERAL APPROVAL

114. The Attorney General or his/her designee has approved the response cost settlement embodied in this Settlement Agreement in accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. § 9622(h)(1).

XXXIV. SEVERABILITY

115. If a court or administrative authority issues an order or decision that invalidates any provision of this Settlement Agreement or finds that Respondent has sufficient cause not to comply with one or more provisions of this Settlement Agreement, Respondent shall remain bound to comply with all provisions of this Settlement Agreement not invalidated or determined

to be subject to a sufficient cause defense by the court's or administrative authority's order or decision.

XXXV. INTEGRATION/ATTACHMENTS

116. This Settlement Agreement and its attachments constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following attachments are attached to and incorporated into this Settlement Agreement:

Attachment I - Site Map

Attachment II - Statement of Work

Attachment III - Enforcement Action Memorandum

XXXVI. REMOVAL OF LIEN

117. Subject to the Reservation of Rights in Section XXII of this Agreement, upon the complete and satisfactory performance by Respondent of its obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XVII of this Settlement Agreement, maintenance or subsequent transfer of any post-removal Site controls that may be required at the Willco Property Site, EPA agrees to remove any lien it may have on the Property under Section 107(l) of CERCLA, 42 U.S.C. § 9607(l), as a result of response action conducted at the Property.

XXXVII. EFFECTIVE DATE

118. The effective date of this Settlement Agreement shall be the date upon which EPA issues written notice that the public comment period pursuant to Paragraph 113 has closed and that comments received, if any, do not require modification of or EPA withdrawal from this Settlement Agreement.

The undersigned representative(s) of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Party he/she represents to this document.

For Carter Building, Inc.:

By: Kathleen Kerr

Title: President

Agreed this 7 day of May, 2013

IT IS SO AGREED AND ORDERED:

For the United States Environmental Protection Agency:

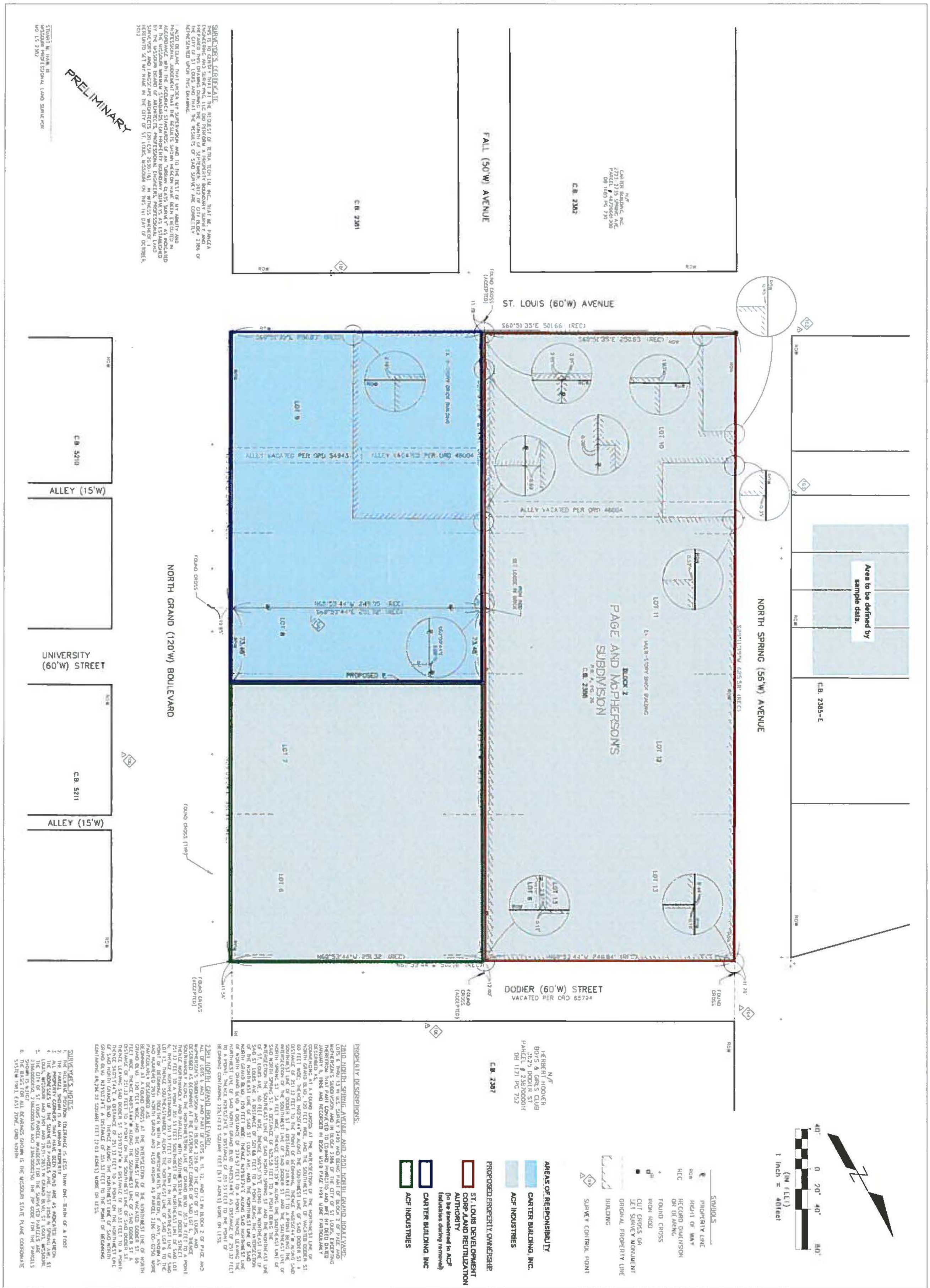
By: _____
J. Scott Pemberton
Senior Assistant Regional Counsel
Office of Regional Counsel

Agreed this 3 day of June, 2013.

By: _____
Karl Brooks
Regional Administrator

Agreed this 3 day of JUNE, 2013.

Attachment I



DRAWN:	EMV
CHECKED:	SMH
APP. BY:	SMH
DATE:	10/11/12

PANGEA ENGINEERING AND SURVEYING, L.L.C.

PROJECT: CITY BLOCK 2386, ST. LOUIS, MISSOURI 63107

CLIENT: TETRA TECH EM, INC., 806 HORAN DRIVE, FENTON, MISSOURI 63026

SHEET: SURVEY OF CITY BLOCK 2386

SHEET NO. 1.0

REV | DESCRIPTION

ATTACHMENT II

STATEMENT OF WORK

I. Introduction and Purpose

This Statement of Work ("SOW") sets forth the requirements for the implementation of the removal action required by the Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") with Respondent Carter Building, Inc., as set forth in the Enforcement Action Memorandum, signed by the Regional Administrator of Region VII of the U.S. Environmental Protection Agency ("EPA") on March 30, 2011, for the Carter Carburetor Site ("Site"). The Respondent shall follow the Enforcement Action Memorandum, the Settlement Agreement, the approved Removal Action Work Plan, and pertinent reference documents and subsequent revisions thereto in submitting deliverables for and implementing the removal action for the portion of the Site known as the Willco Property Site. The purpose of this SOW is to identify the tasks needed for successful completion of removal actions at the Willco Property Site. As set forth in the Engineering Evaluation/Cost Analysis ("EE/CA") and in the Enforcement Action Memorandum, the Site has been divided into four separate areas which will each be addressed by this Settlement Agreement. The areas are as follows:

- The Trichloroethene Aboveground Storage Tank Area ("TCE AST Area")
- The Carter Building, Inc., Building Area ("CBI Building")
- The Willco Property Site, as defined in the Settlement Agreement
- The Former Die Cast Building Area ("Die Cast Area")

The area to be addressed by this Settlement Agreement will be the Willco Building and property retained and acquired by Carter Building, Inc., as defined as the Willco Property Site.

The purpose of conducting removal actions at the Site is to achieve the Removal Action Goals and Objectives that were established during the development of the EE/CA. The Removal Action Objectives for the Willco Property Site are:

- to make the Site safe for any reasonable reuse scenario as described in the EE/CA; and
- halt the further migration of contaminants from the Willco Property Site.

The primary purpose and objective of this SOW is to address the proper cleanup and disposal of contaminants in the Willco Building and on property retained and acquired by Carter Building, Inc., as defined as the Willco Property Site.

II. Description of Removal Actions and Performance Standards

A. Asbestos

This removal will be conducted in accordance with the National Emission Standards for Hazardous Air Pollutants ("NESHAPS") regulations found at Title 40, Code of Federal Regulations ("C.F.R."), Part 61, Subpart M. Any sampling will be conducted in accordance with

a Quality Assurance Project Plan ("QAPP"), NESHAPS, Occupational Safety and Health Administration ("OSHA"), and/or "*Framework for Investigating Asbestos Contaminated Superfund Sites,*" EPA OSWER Directive #9200.0-68, September 2008 (hereinafter referred to as the "Asbestos Framework"), as appropriate.

Respondent will be required to remove and properly dispose of all asbestos containing material ("ACM") at the Willco Property Site in accordance with this Settlement Agreement. The ACM removal will not be considered complete until the Respondent has conducted a thorough cleanup in accordance with and as described in the EPA-approved Removal Action Work Plan. In addition, Respondent must obtain written approval from EPA that the asbestos abatement is complete before proceeding to any additional tasks.

B. Polychlorinated Biphenyls (PCBs)

1. Building Left Standing. Respondent shall address all PCB contamination in the Willco Building in accordance with this Statement of Work. Respondent shall reduce the PCB levels in concrete, dust, and other porous surfaces to below one ppm. All non-porous surfaces shall be cleaned, or removed and disposed of, to reduce the PCB levels to below 10 micrograms per 100 square centimeters.

2. Demolition of Building. Respondent may choose to demolish the Willco Building without further response actions to address PCBs. However, if Respondent chooses this option, all materials must be hauled to an appropriate waste disposal facility, unless Respondent samples materials to show that they are free of significant contamination (i.e., Lead and PCBs). All sampling must be approved by EPA and in accordance with an approved QAPP.

C. Disposal and Access

Packaging, handling, transportation and disposal of all hazardous substances will be in accordance with local, state and federal requirements. In addition, all disposal facilities accepting any hazardous substances from the Willco Property Site must be in compliance with EPA's CERCLA off-site rule in the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") at 40 C.F.R. Section 300.440.

Respondent must also allow unrestricted access to the Willco Property Site until such time as all substantial removal activities have been completed at the Site, including actions being conducted by EPA or other parties.

III. Tasks

Task 1 – Quality Assurance Project Plan ("QAPP") and Health and Safety Plan ("HASP")

QAPP - Within 90 days after the Effective Date of this Settlement Agreement, Respondent shall prepare a QAPP which describes the activities for collecting, analyzing, reviewing and using environmental data at the Willco Property Site. The QAPP shall be developed in accordance with Paragraph 35 of the Settlement Agreement.

HASP - Within 90 days after the Effective Date of the Settlement Agreement, the Respondent shall submit for EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-Site work under the Settlement Agreement. This plan shall be prepared in accordance with EPA's Standard Operating Safety Guide, (November 1984, updated July 1988). In addition, the plan shall comply with all current applicable OSHA regulations; Hazardous Waste Operations and Emergency Response found at 29 C.F.R. Part 1910.

Task 2 – Removal Action Work Plan ("RAWP") -

Within 90 days from the effective date of the Settlement Agreement, Respondent shall prepare a detailed RAWP which clearly and precisely describes the methods and procedures used to remove ACM and PCBs from the Willco Building in preparation for demolition or partial demolition, replacement and potential reuse as described in the EE/CA and the March 30,2011, Enforcement Action Memorandum for the Carter Carburetor Site. The RAWP shall be submitted to EPA for review and approval. No removal shall be conducted at the Willco Property Site until the RAWP has been approved, in writing, by EPA. The RAWP shall contain at a minimum, the following information:

- A detailed description of the methods and practices that will be used to safely and effectively remove, handle, transport and properly dispose of all ACM or PCBs exceeding Performance Standards;

- A detailed description of the methods and practices used to prepare the areas in the Willco Building for removal activities that will prevent contaminants from spreading to other areas;

- A detailed description of the sampling method(s) used to determine success in achieving the Performance Standards within the Willco Building;

- A detailed description of any and all specific air monitoring that will be needed or otherwise required to ensure safety of Site workers and the public. This description shall include interior monitoring, perimeter monitoring, and/or personnel monitoring, as appropriate, and include copies of any and all standard methods being used for air monitoring;

- A detailed description of how the response actions required herein will attain applicable or relevant and appropriate requirements ("ARARs") as set forth in the NCP at 40 C.F.R. Section 300.415(j)

- A schedule of removal activities that is consistent with, does not interfere with, and is in unison with other removal activities being conducted at the Site by EPA or other parties. More specifically, Respondent shall perform no activities at this Site that will interfere with other actions being conducted by EPA or other parties. However, Respondent shall initiate removal actions in accordance with the approved RAWP at the Willco Property Site no later than 90 days following termination of the access agreement with ACF and approval by EPA to initiate onsite removal activities.

Task 3 – Progress Reports

Respondent shall submit periodic written progress reports to EPA on or before the 10th day following the end of the reporting period.

- A description of tasks or activities performed in the current reporting period;
- A description of tasks or activities planned or expected to be completed, started or performed in the subsequent reporting period; and
- A summary of all tasks or activities conducted to date
- Theses reports will be required no less than monthly, unless a different period is approved by EPA in writing. These reports shall be transmitted to EPA in an electronic media format only.

Task 4 – Removal Action Final Report

Within 60 days of completion of removal activities as approved in the RAWP, Respondent shall submit a final report which describes the entire removal action that has been conducted at the Willco Property Site in detail as it occurred. The report shall summarize all sampling data in table or graphical format. The report shall describe how the hazardous substances were removed, handled, loaded and transported. The report shall identify the disposal facility and include all pertinent documentation involving the transportation and disposal of all hazardous substances removed per the Settlement Agreement.

Task 5 — Draft Institutional Control Plan

If requested by EPA, within ninety (90) days of the completion of all removal activities, or sooner if requested by EPA, Respondent shall submit to EPA for review and approval a draft Institutional Control ("IC") Plan consistent with Paragraph 38 of this Settlement Agreement for the Willco Property Site that details all land use restrictions that may be necessary following completion of the removal actions to ensure the continued long-term effectiveness of the removal actions. If necessary, as determined by EPA, the IC Plan will include the development of an environmental covenant that will specify future Site property use limitations and activity restrictions. The IC Plan will not be finalized until EPA has determined the removal actions in each of the three identified areas have been completed and has identified the ICs that will be

necessary for the Site to protect human health and the environment. The IC Plan will be developed and conform to all EPA applicable guidance documents, including:

1. Institutional Controls: A Guide to Planning, Implementing, Maintaining, and Enforcing Institutional Controls at Contaminated Sites;

2. Institutional Controls: A Guide to Implementing, Monitoring, and Enforcing Institutional Controls at Superfund, Brownfields, Federal Facility, UST and RCRA Corrective Action Cleanups, February 2003;

3. Institutional Controls Bibliography: Institutional Control, Remedy Selection, and Post-Construction Completion Guidance and Policy, OSWER 9355.0110, December 2005;

4. Institutional Controls: A Citizen's Guide to Understanding Institutional Controls at Superfund, Brownfields, Federal Facilities, Underground Storage Tank, and Resource Conservation and Recovery Act Cleanups, EPA-540-R-04-003, OSWER 9355.0-98, February 2005; and

5. Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups, EPA 540-F-00-005, OSWER 9355.0-74FS-P, September 2000.

Task 6 — Draft Post-Removal Control Plan

If requested by EPA, within ninety (90) days of the completion of all removal activities, or sooner if requested by EPA, Respondents shall submit to EPA for review and approval a draft Post-Removal Site Control Plan consistent with Paragraph 39 of this Settlement Agreement that details all physical and engineering controls that may be necessary to ensure the continued effectiveness of the removal actions consistent with Section 300.415(1) of the NCP and OSWER Directive No. 9360.2-02. The Post-Removal Site Control Plan, which shall include the monitoring and maintaining of any ICs that may be necessary and required at the Site and periodic reporting to EPA, will not be finalized until EPA has determined the removal actions in the Willco Property Site has been completed. Upon EPA approval, Respondents shall implement such controls and shall provide EPA with documentation of all post-removal site control arrangements.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

MAR 30 2011

ENFORCEMENT ACTION MEMORANDUM

SUBJECT: Approval and Funding for a Non-Time-Critical Removal Action at the Carter Carburetor Site in St. Louis, Missouri

FROM: Jeffrey G. Weatherford, On-Scene Coordinator Mary P. Peterson for
Emergency Response and Removal South Branch

THRU: Scott D. Hayes, Chief Mary P. Peterson for
Emergency Response and Removal South Branch

Cecilia Tapia, Director
Superfund Division

TO: Karl Brooks
Regional Administrator

I. PURPOSE

The purpose of this Enforcement Action Memorandum is to request and document approval of the proposed removal action described herein for the Carter Carburetor Site (Site) in St. Louis, Missouri. The removal action will involve thermally enhanced extraction of polychlorinated biphenyls (PCB) and trichloroethylene (TCE) in the subsurface soils. This action will also involve the removal of PCBs in two on-site buildings. The selected removal action will support redevelopment of the Site for industrial, commercial, and recreational uses with limited restrictions. The Site property and buildings collectively are referred to as the Facility. The following four distinct on-site contaminated areas were evaluated in the Engineering Evaluation/Cost Analysis (EE/CA) and will require removal action:

- The former TCE Aboveground Storage Tank Area (AST)
- The Carter Building, Inc., Area (CBI Area)
- The Willco Plastics Building Area (Willco Building)
- The former Die Cast Area (Die Cast Area)

Attachment III

Based upon the November 1993, January and March 1994 investigations, and the December 1995 and January 1996 Integrated Assessment Investigation, EPA determined that unacceptable concentrations of PCB contamination existed on all four floors of the CBI Building and on the first floor of the Willco Building. PCBs had contaminated areas outside the building near electrical substation number 4 and on the roof of the building near electrical substation number 3 as well as surfaces inside the Die Cast Buildings. Sample analytical results exceeded cleanup levels as outlined in the Office of Solid Waste and Emergency Response Directive No. 9355.4-01, Guidance on Remedial Actions for Superfund Sites with PCB Contamination, and the PCB Spill Cleanup Policy set forth in subpart G of 40 CFR part 761.

Two drums of PCB-contaminated oil originally located near electrical substation number 4 were overpacked and relocated to another more secure part of the Site. The Facility is surrounded by commercial and residential areas. The Boys and Girls Club and a ballpark are located across Dodier Street north of the Facility. Two high schools and three elementary schools are located within one-half mile of the Facility. Numerous residences are within the immediate vicinity of the Site. Available information indicated trespassers had entered the die cast portions of the Facility in the past and may have been exposed to contamination.

On March 18, 1996, EPA determined that a time-critical removal action should be performed at the Site in order to reduce the immediate threat to human health and the environment posed by conditions at the Site. The EPA's determination that such action was necessary and a description of the actions that needed to be taken were described in the Removal Action Memorandum, signed by the Regional Administrator of EPA Region 7 on March 18, 1996.

In July 1996, EPA issued a Unilateral Administrative Order for Removal Response Activities (UAO), Docket Number VII-96-F-0026, pursuant to section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. section 9606(a), to ACF. The UAO required ACF to undertake the following actions identified in the March 1996 Removal Action Memorandum.

- Removal and disposal of a PCB electrical equipment and drums of PCB waste.
- Demolition of the two Die Cast Buildings and the warehouse building.
- Characterization, removal, and off-site disposal of all contaminated building material and debris located on the north side of the north Die Cast Building.
- Characterization and off-site disposal of the contents and demolition debris of the two Die Cast Buildings and warehouse.
- Installation of an interim cover and epoxy coating over the Die Cast Buildings' foundation floors following the demolition and removal of the two Die Cast Buildings and warehouse.

In May 1997, ACF began on-site removal actions pursuant to the 1996 UAO. The time-critical removal action required by the UAO primarily focused on the demolition and disposal of PCB- and asbestos-contaminated buildings on the northeastern portion of the Site. These buildings included two Die Cast Buildings and the South Warehouse. The South Warehouse was completely demolished, including the foundations and floor. The Die Cast Buildings were partly demolished; leaving the PCB-contaminated foundation walls and floors of the Die Cast Buildings in place. These foundations were cleaned, coated with epoxy, and covered with limestone aggregate as an interim measure. Also, approximately 1,100 tons of soil were removed from the north parking lot transformer leak area.

In July 1998, EPA conducted an investigation at the Site and collected chip, wipe, and water samples from the Carter Carburetor Manufacturing Building (the CBI Building), the largest remaining Site building, which was and is currently owned by CBI. Results of analyses of the wipe samples collected on the first floor indicated PCB contamination at levels as high as 247.5 µg/100 cm^2 with an average wipe-sample concentration inside the CBI Building on the first floor of 61.5 µg/100 cm^2. The concrete chip sample analytical results from the first floor indicated PCB concentration as high as 858 ppm with an average chip sample concentration of 176 ppm. Results of analyses of two water samples collected from a pit on the first floor indicated PCB contamination at 841 micrograms/Liter (µg/L) and 490 µg/L. On the second floor, only one wipe-sample analytical result exceeded 10 µg/100 cm^2 with a concentration of PCBs at 11.2 µg/100 cm^2. The third floor sample analytical results indicated PCB concentrations as high as 38.3 µg/100 cm^2 with an average concentration of 11.1 µg/100 cm^2.

In April 2003, ACF contracted with a consulting company to conduct additional environmental sampling at the Site. Several soil boring samples were collected at the Site, the majority of which were collected from beneath the concrete foundation floor of the two former Die Cast Buildings. The analytical results from these soil samples indicated PCB concentrations as high as 11,470 ppm in the sampled subsurface area, primarily beneath the Die Cast Buildings' concrete foundation floors. Based on the results of these soil samples, ACF estimated that 1,750 cubic yards of PCB-contaminated material at concentrations above 10 ppm were present beneath or near the former Die Cast Buildings. In addition to the PCBs, various hydrocarbon and chlorinated solvents have been identified at the Site. Tetrachloroethylene and TCE were identified in subsurface soils at concentrations of 3.46 ppm and 1.05 ppm, respectively.

In September 2005, EPA entered into a settlement agreement with ACF to conduct an EE/CA at the Site to address the remaining on-site environmental contamination. The agreement included the collection of additional data to determine the extent of contamination and an investigation of a former TCE storage tank area for possible subsurface contamination.

In the summer of 2006, ACF, and its contractors conducted environmental assessments for lead-based paint, asbestos, PCBs, and TCE. The results of this investigation confirmed and further delineated PCBs in the CBI Building, lead paint in the CBI Building and the Willco Building, and lead paint throughout both buildings. In addition, ACF's contractors identified the presence of relatively high levels of TCE in subsurface soils beneath the location of the former TCE storage tank. After review of the 2006 investigation reports, EPA determined that further investigation was needed to define the extent of TCE contamination.

In the summer of 2007, ACF's contractors conducted further investigations to further delineate the extent of the TCE in subsurface soil. In addition, ACF's contractors investigated and cleaned all accessible sewer lines on the Site. The sewer lines had previously been sampled and were shown by EPA to have contained PCB-contaminated debris. This sewer line debris was removed to the extent possible and properly disposed of. After reviewing this data, EPA directed ACF to begin conducting the Streamlined Risk Evaluation (SRE) portion of the EE/CA.

After reviewing the subsurface TCE data and the SRE, the Missouri Department of Health and Senior Services (MDHSS) recommended further assessment of vapor intrusion of TCE. In October 2008, in order to expedite the process, EPA conducted an on-site vapor intrusion study by collecting samples directly beneath building floors and other concrete slabs at the Site. The results of this study determined that TCE vapors were present beneath the on-site buildings and slabs at concentrations of concern. Further vapor intrusion sampling was conducted along the east side of the Boys and Girls Club. Based on the results of these samples and groundwater flow direction, it was determined that the TCE was not significantly impacting the Boys and Girls Club.

2. Physical location

The Site is located in the city of St. Louis, Missouri, and includes the Facility which once occupied one and one-half square city blocks. The Site is bounded on the north by Dodier Street, on the east by North Grand Boulevard, on the south by St. Louis Avenue and on the west by North Spring Avenue, but also includes the former TCE AST area which is located to the west of North Spring Avenue.

3. Site characteristics

The Site is located along Grand Boulevard about two miles north of St. Louis University in an area of small businesses and residences in the northcentral portion of the city of St. Louis. At one time, the Facility consisted of several multi-story, connected, manufacturing and warehouse buildings approximately 480,000 square feet in size, and adjacent lots located in a mixed, urban commercial/residential area. The Site property covers approximately 9 acres including the TCE AST area. The Site is 80 feet in elevation above the Mississippi River and is not within its 100-year flood plain zone. The Mississippi River is approximately two miles east of the Site.

While the residential areas immediately across Grand Boulevard are relatively stable, being occupied by retirees and lower-income homeowners, there are significant numbers of abandoned homes and businesses and vacant lots farther east and in other directions from the Site. The population around the Site is predominantly African-American.

The Boys and Girls Club is directly to the north of the Site across Dodier Street. The Boys and Girls Club facility occupies property which was formerly the site of Sportsman's Park, home of the St. Louis Browns and St. Louis Cardinals baseball teams. The Boys and Girls Club serves as a focal point for neighborhood youth activities.

4. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant

Although numerous contaminants have been detected at the Site (see table 2.1 of the EE/CA), the primary contaminants of concern are PCBs and TCE and its accompanying breakdown products. Cleanup goals for each area at the Site were established in the SRE and also include regulatory levels for PCBs. The cleanup goals for each of the four areas identified in the EE/CA are described in Section V(A)(1) below and are also summarized in the following table:

Contaminant	Sample Media Type	Removal Action Goal
PCBs	Bulk Concrete (concentrations within concrete)	1 milligram/kilogram (mg/kg) or ppm
PCBs	Segregation and disposal value for Bulk Concrete to TSCA landfill	50 mg/kg or ppm
PCBs	Soil with no restrictions	1 mg/kg or ppm
PCBs	Soil with deed restrictions only	25 mg/kg or ppm
PCBs	Soil with cap and deed restrictions	Greater than 25 mg/kg or ppm
TCE	Soil	59.2 mg/kg or ppm

The Site has been divided into four areas where hazardous substances have been released, as follows:

Former TCE AST – This area is across Spring Street immediately west of the CBI Building. This area includes subsurface soils impacted with high levels of TCE. The depth of contamination extends approximately 15 to 20 feet to bedrock. As described above, historical information indicates that releases of TCE have occurred in this area. In the summer of 2006, as part of the EE/CA process, ACF conducted limited subsurface soil sampling in this area to determine if there had been a release of TCE into the soil. Results from this sampling effort were reported in table 11 of the November 2006: "Interim Data Submission Report Round 1 Field Data," and showed concentrations of TCE in subsurface soils as high as 1,240 ppm. These results prompted a second sampling effort to better characterize the extent of TCE contamination in the subsurface. The second sampling effort was conducted during the summer of 2007 and reported in the "Interim Data Submission Report Round 2 Field Data, December 2007." The results of this sampling effort defined the lateral and vertical extent of soil contamination in the TCE AST area and indicated TCE concentrations as high as 13,700 ppm.

CBI Building – Also during Rounds 1 and 2 of Field Data collection, ACF conducted an extensive sampling of the CBI Building by collecting concrete cores, brick chips, and wipe samples within the CBI Building. Results of analysis of these samples revealed PCB concentrations as high as 4,140 ppm and PCB contamination greater than 1 ppm throughout the building with higher concentrations on the first and third floors as shown in the EE/CA figures 2-16 through 2-19.

Willco Building – The results from concrete sampling in the Willco Building also indicated PCB contamination in concrete core samples collected from the floor. However, results from these samples showed much lower concentrations with the highest reading at 5.91 ppm. Results from concrete core samples from the Willco Building are shown on figures 2-16 and 2-17 in the EE/CA.

Former Die Cast Area – The Die Cast Area has always been the most contaminated area of the Site and was the primary focus of the time-critical removal action. This area includes subsurface soils impacted with high levels of PCBs. The contaminated soils are covered with a concrete slab (the foundations of the former Die Cast Buildings) and one to two feet of gravel. Subsurface samples collected by EPA and ACF have consistently exceeded regulatory and risk-based levels with PCB concentrations as high as 270,000 ppm in the subsurface soils beneath the foundation floors of the Die Cast Buildings. Concentrations exceeding Removal Action Goals have been identified in the soil down to the limestone bedrock at a depth of approximately 20 feet. Results of PCB samples are shown on figure 2-3 of the EE/CA.

PCBs and TCE are each CERCLA hazardous substances because they are defined as hazardous substances in 40 CFR part 302.4.

5. National Priorities Listing (NPL) status

The Site is not currently on or proposed for listing on the NPL.

6. Maps, pictures, and other graphic representations

A map of the Site location and an aerial photo showing the four primary cleanup areas are included in the attached EE/CA.

B. Other Actions to Date

1. Previous actions

As described in Section II(A)(1) above, the Carter Carburetor Corporation conducted a cleanup action as a result of a release of TCE into underground utility vaults in 1986.

Hubert Thompson conducted a removal of PCB electrical equipment and soil in a transformer storage area as well as concrete and soil in the pump room of the CBI Building.

ACF conducted a time-critical removal action which involved the demolition, removal, and off-site disposal of the two Die Cast Buildings and the South Warehouse. This action also included the removal of drums of PCB waste, contaminated soil, and PCB-contaminated debris.

2. Current actions

Currently, there are no ongoing removal or remedial actions.

C. State and Local Authorities' Roles

1. State and local actions to date

MDNR has been involved primarily in a technical advisory role. MDNR has participated in potentially responsible party technical discussions and has provided review and comments on technical documents.

MDHSS has also participated in technical discussions and coordinated with EPA's toxicologist on review and approval of the SRE.

The St. Louis Development Corporation's LRA is the primary environmental agency for the city of St. Louis and owner of record for a portion of the Site. LRA has been EPA's primary local contact and has assisted in coordinating with the various city agencies when appropriate.

2. Potential for continued state/local response

EPA expects state involvement to continue or increase during this removal action. The LRA will likely continue to be EPA's primary technical contact for the city of St. Louis.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT AND STATUTORY AND REGULATORY AUTHORITIES

At any release, regardless of whether the Site is included on the NPL, where the lead agency makes the determination, based on factors in 40 CFR part 300.415(b)(2) that there is a threat to public health or welfare of the United States or the environment, the lead agency may take any appropriate removal action to abate, prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release. The factors in 40 CFR part 300.415(b)(2) which apply to this Site are:

300.415(b)(2)(i) – Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, or pollutants, or contaminants.

Actual exposures may be occurring due to trespassers accessing the Site. Despite efforts by the owner to restrict access to the CBI Building, there is evidence that trespassing continues to occur. Area residents have expressed concern about potential exposures for homeless people who may be accessing the building. Also, there has been and there is a threat of release of PCBs and asbestos from the CBI Building.

Section 4.0 (Exposure Assessment) of the SRE addresses potential exposures relative to a future use scenario. The SRE describes potential future receptors as:

- Construction workers
- Industrial commercial workers
- Future adolescent recreational visitors

The exposure scenarios identified in the SRE include the following:

Future Industrial or Commercial Workers – If the CBI Building is developed for commercial or industrial use, future industrial or commercial workers could be exposed to dust containing PCBs or by direct contact with the PCB-contaminated concrete floors and walls inside the CBI Building. PCB levels in the concrete exceed the regulatory levels of 1 ppm on all floors of the CBI Building, with the highest levels on the first and third floors. Wipe sampling results were as high as 52 $\mu g/100\ cm^2$ which exceeds the regulatory threshold of 10 $\mu g/100\ cm^2$. Workers in the building may also be exposed to TCE vapors which could enter the building through vapor intrusion. EPA collected subslab vapor samples beneath the CBI Building which showed vapor readings as high as 66,000 parts per billion vapor. However, due to the condition of the building (i.e., no windows or heating, ventilating, and air conditioning system), EPA did not collect actual indoor air samples.

Future Construction Worker – As outlined in the SRE, a construction worker could be exposed to PCB-contaminated soil and TCE-contaminated soil through excavation activities which expose the contaminants. They also could be exposed to TCE vapors while standing in an excavation. The Removal Action Goal for TCE in soil for a construction worker is 52.9 ppm.

Future Adolescent Child – Under this exposure scenario, a future adolescent child could be exposed to PCB-contaminated soil near the surface in the Die Cast Area and TCE in the TCE AST area which is unearthed through construction activities. A construction worker could also be exposed to these contaminants. The lowest Removal Action Goal in soil for a recreational adolescent was calculated at 1.1 ppm for PCBs in soil. However, the TSCA regulatory cleanup level is 1 ppm. Since the TSCA cleanup level of 1 ppm PCBs is lower than the calculated goal, it is considered more protective and has been selected as the Removal Action Goal for the Site.

300.415(b)(2)(iv) – High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface that may migrate.

Both EPA and ACF have identified highly contaminated PCB soils beneath the former Die Cast Buildings. These PCBs have been detected to bedrock and are mixed with solvents such as TCE and petroleum hydrocarbons. Contaminants remaining in the soil could migrate downward to groundwater and upward through vapor intrusion to off-site receptors.

PCBs are a mixture of chemicals which are no longer produced in the United States. Historically, PCBs were used as coolants and lubricants in transformers, capacitors, and other

electrical equipment because they do not burn easily and they have good insulating properties. Other products made before 1977 which may contain PCBs include fluorescent lighting fixtures and hydraulic oils. The manufacture of PCBs ceased in the United States in 1977 due to evidence that they build up in the environment and can cause harmful health effects to humans and animals.

Health effects that have been associated with exposure to PCBs include acne-like skin conditions in adults, and neurobehavioral and immunological changes in children. PCBs are known to cause cancer in animals, and are considered probable human carcinogens.

TCE is a nonflammable, colorless liquid which is commonly used in industry as a solvent for the degreasing of metal parts. Human health effects associated with short-term exposures to TCE include headaches, dizziness, nausea, and nervous system effects such as poor coordination. Human health effects associated with long-term exposures to TCE include liver and kidney damage, impaired immune system function, and may also include cancer. TCE is considered a probable human carcinogen.

IV. ENDANGERMENT DETERMINATION

Actual or threatened release of a hazardous substance at this Site, if not addressed by implementing the response action selected in this Enforcement Action Memorandum, may present an imminent and substantial endangerment to public health, or welfare, or the environment.

V. PROPOSED ACTIONS

A. Proposed Action Description

As described above and in the EE/CA, the Site has been divided into four distinct contaminated areas and the proposed action in each area is described as follows:

The TCE AST Area – The proposed action for this area is In Situ Thermal Desorption and Vapor Extraction (ISTD/VE). The ISTD/VE Alternative utilizes simultaneous application of thermal conduction heating and vacuum extraction to treat contaminated soil in place. The applied heat volatilizes organic contaminants within the soil, enabling them to be carried in the vapor stream toward heater-vacuum wells. Gases emerging from the heated soil are collected through the vacuum wells and conveyed to an Air Quality Control (AQC) system for treatment. The AQC system performance is gauged by a Continuous Emissions Monitoring system, vapor sampling, and testing of the final off-gas. Confirmation sampling of system performance is conducted after the operation is complete.

The ISTD/VE Alternative will satisfy applicable or relevant and appropriate requirements (ARARs) for the Site. Provisions for control of vapor releases are designed into the system, including a vapor barrier constructed on the ground surface, allowing for the capture of all vapors generated during the application of heat to the impacted soils. The ISTD/VE technology will be applied to the TCE AST Area until the Removal Action Goal of 59.2 ppm TCE is achieved.

Following implementation of the ISTD/VE technology, institutional controls will be put into place. The controls will include filing of a deed restriction/environmental covenant with the property recorder specifying certain property restrictions, and notifying the city of St. Louis' Building Division of restrictions on development/environmental covenants in place at the Site.

The CBI Building – The proposed removal action for the CBI Building is demolition and off-site disposal. Prior to demolishing the building, an asbestos inspection and abatement action will be completed to remove asbestos-containing materials from the building. Following completion of the asbestos abatement, the CBI Building will be demolished and building materials segregated based on PCB concentrations. Although attached to the Willco Building, controlled demolition of the CBI Building, starting at the top floor and working down, is feasible, and with suitable precautions and shoring, the Willco Building will remain standing for future use. The Building Demolition and Disposal Alternative will achieve removal goals by removing the impacted building materials from the Site. Dismantled building materials will be transported to an appropriate disposal Facility. Based on existing analytical data, building materials could be disposed of at either a TSCA or sanitary landfill, depending upon the PCB concentrations present in the materials. If PCB concentrations exceed 50 ppm, the materials must be disposed of in a TSCA-approved landfill.

To minimize or prevent any off-site impacts during demolition, standard dust control and storm water management practices will be employed. It is anticipated that the detailed work plan for the demolition of the building will specify the type of dust control and storm water management practices to be utilized during the demolition process. Dust control may include misting, enclosure, etc., with appropriate testing to ensure fugitive dust emissions are prevented.

Following completion of the building demolition, surface soils beneath the building will be tested for PCB levels. Based on existing Site data, PCB levels beneath the building are expected to be low. However, if PCB levels are between 1 and 25 ppm, institutional controls will be required. If PCB levels are greater than 25 ppm, a protective cover will be required in addition to institutional controls. Institutional controls to be put in place include changing the zoning of the Site to prevent future use of the Site for residential or child day care/school purposes, filing of a deed restriction/environmental covenant with the property recorder specifying certain property restrictions, and notifying the city of St. Louis' Building Division of restrictions on development and environmental covenants in place at the Site.

The Willco Building – Because the PCB contamination in the Willco Building is relatively low, a thorough cleaning will be conducted in an attempt to reduce the PCB levels to below 1 ppm. In addition, an asbestos abatement action will be completed for the Willco Building. If the cleaning fails to achieve the 1 ppm goal for PCBs, the Partial Removal alternative will be implemented. The Partial Removal alternative would provide for the removal of PCBs in excess of removal action goals and involves the removal and replacement of certain sections of the first and second floor slabs (approximately 10 percent of the first floor slab and 2 percent of the second floor slab, based on the sampling conducted to date).

After completion of asbestos remediation, removal and replacement of impacted concrete slabs could begin. Shoring would be required for the removal of the second floor slab. Each section of floor slab to be removed and replaced would require shoring prior to and during saw cutting, during the removal of the slab, and during the placement and curing of the replacement slab. In addition, all water and dust generated during the saw-cutting process would need to be captured, characterized, and disposed of in an appropriate manner.

Removal and replacement of the PCB-impacted floor slabs would reduce the toxicity and risk of exposure to PCBs by removing the PCBs from the Site. The alternative complies with ARARs because concrete with PCBs above the removal action goals would no longer be present, thereby achieving the long-term goal of overall protection of human health and the environment. Short-term exposures would need to be mitigated during the development of the work plan to ensure that concrete dust and dust-laden water is not released to the environment and is contained to prevent exposure of workers performing the removal.

The selected response action includes institutional controls to prevent future use of the Willco Building for residential or child day care/school purposes.

The Die Cast Area – The ISTD/VE utilizes simultaneous application of thermal conduction heating and vacuum to treat contaminated soil and concrete without excavation. The applied heat volatilizes organic contaminants within the soil and concrete, enabling them to be carried in the vapor stream toward heater-vacuum wells. PCBs are destroyed, leaving behind inert materials. The vapors and gases extracted through the vacuum extraction wells are collected above ground and sampled to ensure no fugitive emissions occur. Confirmation sampling of system performance is conducted after the operation is complete. The ISTD/VE proposed action would satisfy ARARs for the Site. Provisions for control of vapor releases are designed into the system, including a vapor barrier constructed on the ground surface, allowing for the capture of all vapors generated during the application of heat to the impacted soils.

The removal action goal for this alternative is 1 ppm PCBs for soils and concrete, although this level may not be practically achievable through ISDT/VE for deep soils near the bedrock surface. If the soils are impacted above the 1 ppm level and this level cannot be achieved through treatment, deed restrictions in the form of environmental covenants shall be put in place with the property recorder specifying certain property restrictions. Following treatment, if PCBs remain within the soils at a level greater than 25 ppm, a protective cover combined with long-term monitoring (including groundwater monitoring) will be required. In addition, deed restrictions in the form of an environmental covenant will be required in accordance with the PCB cleanup regulations at 40 CFR part 761(a).

In addition to treatment of the impacted soils and concrete, institutional controls to be put in place include changing the zoning of the Site to prevent future use of the Site for residential or child day care/school purposes, filing of a deed restriction in the form of an environmental covenant with the property recorder specifying certain property restrictions, and notifying the city of St. Louis' Building Division of restrictions on development/environmental covenants in place at the Site.

The ISTD/VE Alternative would achieve the overall protection of human health and environment primarily by destroying the contaminants, with a fraction of the contaminants removed from the soil, collected at the surface, and disposed of at a permitted facility. This alternative satisfies all ARARs, and is effective in both the short and long term.

The ISTD/VE Alternative is technically feasible, although a pilot test will be conducted to confirm the effectiveness of the technology at the Site. The degree of effectiveness will be determined by evaluating the ability to achieve the Removal Action Goal of 1 ppm PCBs, the cost of treatment, and the implementability. The in situ nature of the process eliminates logistical complexities and minimizes exposures to nearby populations during implementation. All needed goods and services are available to perform this alternative.

In the event that the ISTD/VE Alternative pilot test concludes that the technology is not effective at the Site, excavation and off-site disposal (as described in the EE/CA) shall be implemented in this area of the Site. In this event, the Removal Action Goal for soil would remain at the 1 ppm PCBs level.

B. Contribution to remedial performance

The Site is not on the NPL.

C. EE/CA

Alternatives to the proposed removal actions were considered and discussed in the EE/CA. The proposed actions were chosen based on a comparative analysis of effectiveness, implementability, and cost.

D. ARARs

Pursuant to 40 CFR 300.415(j), removal actions will, to the extent practicable considering the exigencies of the situation, attain ARARs. The federal and state ARARs for the Site are discussed in Section 3.1.2 of the EE/CA. Table 3.1 and Table 3.2 of the EE/CA provides a list of federal and state ARARs for the Site, respectively, and are attached for reference.

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

The CBI Building has become deteriorated over time. Trespassers continue to enter the building despite the owner's attempts to restrict access. If action is delayed, the condition of the building is expected to continue to deteriorate resulting in increased risk to trespassers, increased threat of releases of hazardous substances to the environment, including the potential for off-site migration of contaminants. Delayed action would also delay redevelopment of the property for future uses.

VII. OUTSTANDING POLICY ISSUES

None.

VIII. ENFORCEMENT

See the attached Confidential Enforcement Addendum for this Site. For NCP consistency purposes, it is not a part of this Enforcement Action Memorandum.

IX. RECOMMENDATION

This decision document represents the selected removal action for the contaminated soils and buildings at the Site. The removal action was developed in accordance with CERCLA, as amended, and is not inconsistent with the NCP. This decision is based on the Administrative Record for the Site.

Conditions at the Site meet NCP section 300.415(b) criteria for a removal action and I recommend your approval of the proposed removal action.

Approved:

Karl Brooks, Regional Administrator

3/30/11
Date

Attachments:
1. Site Location Map
2. Site Layout
3. Table 3.1 – Action and Chemical Specific Requirements
4. Table 3.2 – Action Specific Requirements
5. Confidential Enforcement Addendum